

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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| UNITED STATES OF AMERICA | : | NO. 3:CR-17-27 |
| | : | |
| v. | : | (JUDGE CAPUTO) |
| | : | |
| HOLLY KASZUBA | : | (ELECTRONICALLY FILED) |
| Defendant | : | |

GOVERNMENT’S NOTICE OF EXPERT TESTIMONY

The United States of America, by and through Assistant United States Attorney Michelle Olshefski, files this Notice of Expert Witness or Witness with Expertise or Special Skill. Trial in this matter is scheduled to begin on November 1, 2018.

Pursuant to Fed. R. Crim. P. 16(a)(1)(G), the Government “must give to the defendant a written summary of any testimony that the Government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial.” Rule 702 of the Federal Rules of Evidence provides that “if scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact at issue, a witness qualified as an expert

by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.” The purpose of the rule is to “minimize surprise that often results from unexpected expert testimony, reduce the need for continuances, and to provide the opponent with a fair opportunity to test the merit of the expert’s testimony through focused cross-examination.” Advisory Committee Note, Fed. R. Crim. P. 16 (1993); *see also United States v. Carrillo-Morones*, 564 F. Supp.2d 707, 710 (W.D. Tex. 2008); *United States v. McElwee*, 2009 WL 2922834 (W.D. La. 2009). Thus, the primary concern in any case using experts or witnesses with some expertise is providing notice.

The Government has previously provided defendant with the expert report and curriculum vitae (CV) of Dr. Stacey Hail. The defendant has previously been provided with autopsy report based upon autopsy conducted by Dr. Gary Ross, a Forensic Pathologist. The

defendant has further been provided with toxicology reports prepared by Dr. Michael Coyer, related to the death of C.G. Finally, the defendant has been provided with laboratory reports regarding the scientific analysis performed on various items of drug evidence seized from the death scene of C.G., as well as drug evidence involved in the December 16, 2015 controlled purchase from defendant, Josthan Cardona.

Stacey L. Hail, M.D.

The United States intends to call Stacey L. Hail, M.D. (hereinafter, “Dr. Hail”) as an expert witness in this case, in the medical practice area of toxicology and emergency medicine. Dr. Hail has extensive training and background in toxicology and emergency medical practices. She received a bachelor’s degree in chemistry in 1995 from Southern Methodist University, Dallas, Texas. She graduated from the Medical College of Georgia in 1999 and conducted her internship and residency at Southern Methodist University from 1999 to 2002. She completed a fellowship in toxicology at the Southern Methodist University in 2004. As detailed in the CV previously provided to defendant, Dr. Hail is board

certified in Toxicology and Emergency Medicine. She currently serves as Attending Physician in the Parkland Hospital Emergency Department. Parkland is a Level 1 Trauma Center and has the most emergency room visits of any single hospital in the United States. As a Parkland emergency physician, Dr. Hail regularly evaluates, manages, and treats all patients presenting with trauma, medical emergencies, burns, psychiatric emergencies, overdoses and toxic exposures including illicit drugs.

Dr. Hail also serves as Medical Toxicology Faculty in the North Texas Poison Center where she regularly consults with physicians in North Texas regarding the appropriate management of all types of overdoses, ingestions and toxic exposures through the North Texas Poison Center. Dr. Hail is an expert in recognizing the signs and symptoms of intoxication from prescription medications, alcohol and illicit substances.

Dr. Hail has served as an Assistant Professor of Emergency Medicine and Medical Toxicology, Department of Surgery - Division of Emergency Medicine at the University of Texas, Southwestern Medical Center in Dallas, Texas since 2002. She has also served as an

Emergency Medical Physician at both the Medical Center of Mesquite, Mesquite, Texas and the Doctor's Hospital in Dallas, Texas. She has helped train every Medical Toxicologist graduating from Parkland Hospital's Medical Toxicology Fellowship program since 2004.

Dr. Hail has testified in federal and state courts as an expert witness in Medical Toxicology and Emergency Medicine. She has served as a panel member of the Texas Medical Board since 2006.

The United States will offer Dr. Hail's expert testimony related to the physiology of the brain, heart, liver, lungs and other organs of the body and their chemical and physiological interactions with narcotic (opioid substances) and other drugs commonly prescribed in combination with these drugs, including but not limited to Heroin Fentanyl, Morphine, Codeine, Alprazolam, and Butalbital.

The United States will offer Dr. Hail's expert testimony regarding the names, chemical and physiological interactions, purposes, uses, and side-effects of various controlled substances involved in this case, including, but not limited to, Heroin Fentanyl, Morphine, Codeine, Alprazolam, and Butalbital.

The United States will offer Dr. Hail's expert testimony and opinion that but for the fentanyl/heroin mixture, C.G. would not have died on December 13, 2015.

The United States will offer Dr. Hail's expert testimony and opinion that but for the administration of Narcan to T.G. on December 12, 2015, there was a substantial risk of dying from the fentanyl/heroin mixture.

With regard to the procedures and standards about which she will testify, Dr. Hail's conclusions are based on her training and experience as a physician practicing in the area of toxicology, emergency medicine treatment of opioid overdose, her medical and scientific training related to the chemical and physiological interactions between opioids and other drug combinations and how they affect the human body.

Dr. Hail's testimony is based on principles and methods established for toxicologist and emergency room medical physicians in the usual and common course of practice within the United States. Her testimony is based on common knowledge in these fields and her experience applying and observing such principals.

Gary W. Ross, M.D.

The United States intends to call Gary W. Ross, M.D. (hereinafter, “Dr. Ross”) as an expert witness in this case, in the medical practice area of forensic pathology. Dr. Ross has extensive training and background in both clinical and forensic pathology. He received a bachelor’s degree in biology in 1976 from the University of Scranton. He graduated from Hahnemann Medical College, Philadelphia, in 1980 and conducted his internship at Hahnemann University Hospital in Philadelphia. Dr. Ross completed his residency at the Bryn Mawr Hospital, Bryn Mawr, Pennsylvania in the Department of Pathology. Dr. Ross is board certified by the American Board of Pathology in Anatomic and Clinical Pathology and Forensic Pathology. He has testified in federal and state courts as an expert witness in Forensic Pathology. The CV of Dr. Ross will be provided to the defendant under separate cover.

The United States will offer Dr. Ross’s expert testimony as to the cause and manner of death of C.G. based upon his performance of an autopsy and physical examination of the brain, heart, liver, lungs and other organs of the body and the toxicology reports associated with C.G.

The United States will offer Dr. Ross's expert testimony that the death for C.G. was, in his opinion, a fentanyl death.

Michael J. Coyer, Ph.D., F-ABFT

The Government intends to call Michael J. Coyer, Ph.D. (hereinafter, "Dr. Coyer") a forensic toxicologist and laboratory research director for Northern Tier Research located in Dunmore, Pennsylvania. Dr. Coyer will testify about the results of laboratory testing performed on the various bodily fluids of C.G. taken at autopsy. Dr. Coyer will offer testimony as to the levels of the controlled substances found in various fluids taken from C.G.'s body at autopsy, as well as the presence of the metabolites of the controlled substance. Dr. Coyer's will offer testimony to explain the relationship between the controlled substances and the metabolites of the controlled substances, including the temporal relationship between both.

Dr. Coyer graduated from the University of Scranton in 1986 with a Bachelor of Science degree in Chemistry. He obtained his Doctorate Degree in Inorganic/Physical Chemistry from Rutgers University, New

Brunswick, New Jersey in 1991. Dr. Coyer currently serves as the Director for Northern Tier Research located in Dunmore, Pennsylvania, and is retained as an expert in Forensic Toxicologist for the City of Philadelphia

The toxicology reports related to the laboratory testing performed for C.G. and the results thereof have previously been provided to the defense. The CV of Dr. Coyer will be provided to the defendant under separate cover.

Brandy L. Bevan, Forensic Scientist

The Government will introduce expert testimony from Brandy L. Bevan (hereinafter, “Ms. Bevan”), a Forensic Scientist employed by the Pennsylvania State Police, Bureau of Forensic Services, Wyoming Regional Laboratory. Ms. Bevan is the forensic scientist who examined and analyzed the suspected controlled substances in this case and who has determined that the substances are, in fact, heroin, a Schedule I controlled substance, and fentanyl, a Schedule II controlled substance.

All laboratory reports relevant to the charge have previously been provided to defendant.

Respectfully submitted,

DAVID J. FREED
United States Attorney

By: /s/ Michelle L. Olshefski
MICHELLE L. OLSHEFSKI
Assistant U.S. Attorney

Dated: October 25, 2018

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 25th day of October, 2018, I caused the foregoing **“Government’s Notice of Expert Testimony”** to be served upon James Swetz, Esquire, counsel of record for the defendant, and that Attorney Swetz is a filing user under the ECF system.

/s/ Michelle L. Olshefski
Michelle L. Olshefski
Assistant U.S. Attorney